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10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 WILLIAM SLACK and HARRY
14 STROCK, Individually and on behalf of
15 others similarly situated,

16 Plaintiff,

17 vs.

18 PARBALL NEWCO LLC dba
19 BALLY'S, PARBALL CORP,
20 PARBALL LLC, and "JOHN DOE
21 CORPORATIONS" 1 to 50, name
22 fictitious, actual name and number
23 unknown,

24 Defendants.

Case No.:

COMPLAINT

25 **CLASS ACTION COMPLAINT FOR VIOLATIONS**
26 **OF FEDERAL AND STATE STATUTES GOVERNING**
27 **THE PAYMENT OF WAGES**

28 **JURISDICTION, PARTIES AND PRELIMINARY STATEMENT**

1 The plaintiffs, WILLIAM SLACK and HARRY STROCK (the "plaintiffs" or
2 "named plaintiffs"), are residents of Clark County and the State of Nevada. Plaintiffs
3 are current employees of the defendants employed as "casino floor supervisors" also
4 called "table games supervisors."

5 2. The defendant, PARBALL NEWCO LLC (the "defendant"), is a foreign
6 limited liability company formed and existing pursuant to the laws of the State of

1 Delaware and has its principal place of business in Clark County Nevada and operates
2 the property known as the BALLY'S HOTEL AND CASINO and/or PARIS HOTEL
3 AND CASINO in Las Vegas, Nevada.

4 3. The defendant PARBALL CORP is a domestic corporation formed and
5 existing pursuant to the laws of the State of Nevada and has its principal place of
6 business in Clark County Nevada and has previously operated or does operate the
7 property known as the BALLY'S HOTEL AND CASINO and/or PARIS HOTEL
8 AND CASINO in Las Vegas, Nevada.

9 4. The defendant PARBALL LLC is a domestic limited liability company formed
10 and existing pursuant to the laws of the State of Nevada and has its principal place of
11 business in Clark County Nevada and has previously operated or does operate the
12 property known as the BALLY'S HOTEL AND CASINO and/or PARIS HOTEL
13 AND CASINO in Las Vegas, Nevada

14 5. The defendants "John Doe Corporations" 1 to 50 are named fictitiously and
15 their exact legal names and the number of such defendants are unknown (the "John
16 Doe Defendants"). Such defendants are the legal entities that own and/or operate the
17 BALLY'S HOTEL AND CASINO and PARIS HOTEL AND CASINO in Clark
18 County, Nevada, the properties at which the plaintiff and members of the putative
19 plaintiff class are/were employed.

20 6. The defendants engage in a for-profit business which has gross revenue in
21 excess of \$500,000 per annum and are engaged in the production of goods for
22 interstate commerce and/or the use and/or handling of goods which have moved in
23 interstate commerce as such terms are defined in the FLSA and are employers subject
24 to the jurisdiction of the FLSA.

25 7. The plaintiffs have been employees of the defendants during the time period
26 pertinent to this complaint, to wit, during the three years immediately preceding the
27 initiation of this action. The plaintiffs have performed labor and services in various
28 occupations that are subject to the aforesaid provisions of the FLSA. These

1 occupations include, but are not limited to, laboring as casino floor supervisors/table
2 games supervisors in the BALLY'S HOTEL AND CASINO and the PARIS HOTEL
3 AND CASINO which are owned and operated by one or more of the defendants.

4 8. The defendants are alleged to be joint employers, or successive employers,
5 within the meaning of the FLSA and state law of the plaintiffs.

6 9. That all of the various violations of law that are alleged herein were committed
7 intentionally and/or willfully by the defendants.

8 **CLASS AND COLLECTIVE ACTION ALLEGATIONS**

9 10. Pursuant to Section 16(b) of the Fair Labor Standards Act ("FLSA"), the
10 named plaintiffs bring this Complaint as a collective action (also commonly referred to
11 as an "opt-in" class), on behalf of themselves and all persons similarly situated, to wit
12 a putative class of casino floor supervisors/table games supervisors employed by the
13 defendants to work in the BALLY'S HOTEL AND CASINO and the PARIS HOTEL
14 AND CASINO in the State of Nevada within three (3) years of the filing of this
15 Complaint until entry of judgment after trial, except those persons who have
16 previously released or settled their claims for the unpaid overtime wages that are
17 alleged in this Complaint.

18 11. In respect to the Nevada statutory claims set forth in this Complaint, the
19 plaintiffs bring this action as a class action pursuant to Fed. R. Civ. P. 23 on behalf of
20 themselves and a class of all similarly situated persons employed by the defendants in
21 the State of Nevada.

22 12. Plaintiffs are informed and believe, and based thereon allege that there are
23 at least 100 putative class and collective action members. The actual number of class
24 and collective action members is readily ascertainable by a review of the defendants'
25 records through appropriate discovery.

26 13. The number of class members is so numerous that joinder is impracticable
27 and would involve many individual litigations. Disposition of these claims in a class
28 and/or collective action rather than in individual actions will benefit the parties and the

1 Court.

2 14. There is a well-defined community of interest in the questions of law and
3 fact affecting the class as a whole.

4 15. Proof of a common or single set of facts will establish the right of each
5 member of the class to recover. These common questions of law and fact predominate
6 over questions that affect only individual class members. The named plaintiffs' claims
7 are typical of those of the class.

8 16. A class or collective action is superior to other available methods for the
9 fair and efficient adjudication of the controversy. Due to the typicality of the class
10 members' claims, the interests of judicial economy will be best served by adjudication
11 of this lawsuit as a class action. This type of case is uniquely well-suited for class or
12 collective treatment since the defendants' practices were uniform and the burden is on
13 the employer to establish that its method for compensating the class members complies
14 with the requirements of the FLSA and Nevada law.

15 17. The named plaintiffs will fairly and adequately represent the interests of
16 the class and have no interests that conflict with or are antagonistic to the interests of
17 the class.

18 18. The named plaintiffs and counsel are aware of their fiduciary
19 responsibilities to the class members and are determined to diligently discharge those
20 duties by vigorously seeking the maximum possible recovery for the class.

21 19. There is no plain, speedy, or adequate remedy other than by maintenance
22 of this class action. The prosecution of individual remedies by members of the class
23 will tend to establish inconsistent standards of conduct for the defendants and result in
24 the impairment of class members' rights and the disposition of their interests through
25 actions to which they were not parties.

26
27 **FACTUAL ALLEGATIONS UNDERLYING THE CLAIMS**

28 20. The defendants are in the hotel and casino business and employ the

1 plaintiffs and the putative FLSA collective and Fed. R. Civ. P. 23 class members as
2 casino floor supervisors/table games supervisors in the BALLY'S HOTEL AND
3 CASINO and the PARIS HOTEL AND CASINO in Las Vegas, Nevada.

4 21. The plaintiffs and the putative FLSA collective and Fed. R. Civ. P. 23 class
5 members are, for purposes of the overtime pay requirements of the FLSA and state
6 law, improperly compensated on what defendants claim is a salary basis. Even though
7 the plaintiffs were told they were compensated on a salary basis, defendants routinely
8 deducted money from this purported salary when plaintiffs worked "partial days" and
9 could not or would not use their accumulated paid time off ("PTO"). For example,
10 plaintiff SLACK has experienced receiving only partial day pay after completing
11 approximately four hours of his scheduled eight hour shift after being sent home by an
12 upper level management employee who determined the casino was "overstaffed" and
13 plaintiff SLACK was not required to be present on the casino floor for the entire shift.
14 In that instance, which occurred within the last three years, plaintiff SLACK was paid
15 only for the hours he actually was present on the casino floor and engaged in work,
16 and not for his "full day" of supposedly "salaried compensation" work. Such a "partial
17 day" pay policy violates the salary basis test under state and federal law forbidding
18 employers from making "partial day" deductions from a salaried employees' "full day"
19 salary pay. Plaintiff STROCK was forced to use his accumulated PTO to cover any
20 unworked hours during his shift if he was told to leave his shift early by defendants. If
21 he chose not to use his accumulated PTO, he would only be paid for a partial day
22 instead of his regular eight hour scheduled "full salary" shift day. Defendants deduced
23 from the salaries of all casino floor supervisors/table games supervisors in the same
24 fashion. By doing so, defendants violated the salary requirement to qualify for the
25 overtime exemption under state and federal law. Accordingly, plaintiff and the
26 putative class of plaintiffs were misclassified as exempt from overtime.

27 22. While it is the defendants burden to establish the applicability of any
28 exemption to the overtime pay requirements of the FLSA and state law, and not the

1 plaintiffs' burden to disprove the existence of any such exemption, plaintiffs allege
2 that even if they and the class and collective action members had been compensated on
3 a true "salary basis," they would still be entitled to overtime pay. That is because there
4 is no applicable overtime pay exemption for the plaintiffs and the class and collective
5 action members, none of whom exercise independent judgment and discretion in
6 decision making in the fulfillment of their duties as defendants' employees that is
7 sufficient to make them overtime exempt "executive" (managerial) employees.
8 Indeed, the relevant practices and procedures of the defendants uniformly forbid the
9 plaintiffs and the class and collective action members from exercising any such level
10 of independent judgment and discretion in the performance of their duties as
11 employees of the defendants.

12 23. The plaintiffs and putative class members are scheduled for shifts of 40
13 hours per week, five days per week, eight hours per day. In addition to the 40 hour per
14 week schedule, the defendants required and continue to require all their casino floor
15 supervisors/table games supervisors employed at the BALLY'S HOTEL AND
16 CASINO and the PARIS HOTEL AND CASINO to attend pre-shift meetings which
17 commence twenty (20) minutes prior to the start of each employee's scheduled shift
18 each work day. Such pre-shift meeting time was uncompensated by defendants. This
19 resulted in each floor supervisor working approximately eight hours and twenty
20 minutes per day, or at least 41 hours and 40 minutes each week, without being paid
21 any wages whatsoever for the additional one hour and 40 minutes worked each week,
22 such additional work time constituting in most or almost all weeks "overtime" under
23 both the FLSA and Nevada law. Such policy of requiring all BALLY'S HOTEL AND
24 CASINO and PARIS HOTEL AND CASINO floor supervisors to perform
25 uncompensated pre-shift meeting work continued through October 1, 2016.

26 24. In addition to the unpaid pre-shift meetings discussed in paragraph 23,
27 defendants also required their casino floor supervisors/table games supervisors to
28 attend in person, on a quarterly basis, meetings lasting approximately one and one-half

1 to two hours in length as a requirement of their job. These meetings were to be
2 attended by the plaintiffs and the putative class members on their off-time, meaning
3 not during their regularly scheduled shifts, and such persons were not compensated for
4 their attendance at this meetings. Defendants also required the plaintiffs and the
5 putative class members to participate in online training and testing/certification exams
6 on a quarterly basis which the plaintiffs and the class members must complete during
7 times outside their normally scheduled shifts and for which time they were not paid.

8 25. Plaintiffs and the other class and collective action members also on
9 occasion worked in excess of the 41 hours and 40 minutes per week, as sometimes
10 they were required to work six (6) days per week during special events, and for which
11 they were not compensated for the additional shift(s) and hours worked.

12 26. Defendants' violations of the FLSA were willful in that defendants were
13 aware their failure to pay overtime was illegal and violated the FLSA and Nevada law.

14 **AS AND FOR A FIRST CLAIM FOR RELIEF PURSUANT TO THE**
15 **FAIR LABOR STANDARDS ACT AGAINST ALL DEFENDANTS ON**
16 **BEHALF OF THE NAMED PLAINTIFFS AND ALL OTHERS SIMILARLY**
SITUATED

17 27. The named plaintiffs bring this First Claim for Relief pursuant to 29
18 U.S.C. § 216(b) against defendants on behalf of themselves and all other similarly
19 situated persons, if any, who consent in writing to join this action.

20 28. Pursuant to the applicable provisions of the FLSA, 29 U.S.C. § 206 and §
21 207, the named plaintiffs and those similarly situated were entitled to an overtime
22 hourly wage of time and one-half their regular hourly wage for all hours worked in
23 excess of forty hours per week, the named plaintiffs and those similarly situated
24 worked more than 40 hours per week for the defendants, and the defendants willfully
25 failed to make said overtime wage payments because such persons were not paid such
26 required wages for their attendance at daily "pre-shift meetings" and other working
27 time. The named plaintiffs have worked and continue to work in excess of 40 hours
28 every week in which they are scheduled to work at least five (5) days per week which

1 is the vast majority of all weeks worked by each of the plaintiffs and class members, as
 2 all such persons attended such “pre-shift meetings” prior to the start of their shifts
 3 which brings their total hours worked for each week to at least 41 hours and 40
 4 minutes during the vast majority of their work weeks.

5 29. The named plaintiffs on behalf of themselves and all other similarly
 6 situated persons who consent in writing to join this action, seek, on this First Claim for
 7 Relief, a judgment against defendants for unpaid overtime wages and additional
 8 liquidated damages of 100% of any unpaid overtime wages, such sums to be
 9 determined based upon an accounting of the hours worked by, and wages actually paid
 10 to the named plaintiffs and any such other persons who consent to join this action, and
 11 the plaintiffs also seek an award of attorney’s fees, interest, and costs as provided for
 12 by the FLSA.

13
 14 **AS AND FOR A SECOND CLAIM FOR RELIEF PURSUANT TO**
 15 **NEVADA REVISED STATUTES § 608.018 AGAINST THE DEFENDANTS**
 16 **ON BEHALF OF THE NAMED PLAINTIFFS AND ALL OTHERS**
 17 **SIMILARLY SITUATED**

18 30. The named plaintiffs repeat each and every allegation previously made
 19 herein and incorporate the same into this claim for relief.

20 31. The named plaintiffs bring this Second Claim for Relief against the
 21 defendants pursuant to NRS § 608.018 on behalf of themselves and a class of all
 22 similarly situated employees of the defendants so employed at the BALLY’S HOTEL
 23 AND CASINO and the PARIS HOTEL AND CASINO in Las Vegas, Nevada.

24 32. Pursuant to NRS § 608.018, the plaintiffs and the putative class members
 25 were entitled to the payment of wages at time and one-half their normal hourly rate
 26 when they worked in excess of 40 hours a week, and the plaintiffs were not paid such
 27 required wages as their attendance at daily “pre-shift meetings” and other meetings or
 28 trainings was uncompensated, defendants also misclassifying them as salaried workers
 exempt from overtime payments.

33. The named plaintiffs on behalf of themselves and the class members, seek,

1 on this Second Claim for Relief, a judgment against the defendants for overtime
2 wages, such sums to be determined based upon an accounting of the hours worked by,
3 and wages actually paid to the plaintiffs, and also seek an award of attorney's fees,
4 interest and costs, as provided for by Nevada Law.

5 Wherefore, the plaintiffs demand a judgment on all claims for the damages and
6 equitable relief as alleged aforesaid.

7
8 Plaintiffs demand a trial by jury on all issues so triable.

9
10 Dated: Clark County, Nevada
October 4, 2015

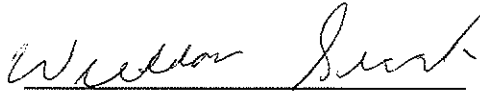
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CONSENT TO JOINDER

William Slack, by signing below, hereby consents to join this case as a plaintiff pursuant to 29 U.S.C. 216(b).



William Slack

CONSENT TO JOINDER

Harry Strock, by signing
below, hereby consents to join this case as a plaintiff pursuant
to 29 U.S.C. 216(b).



Harry Strock